IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8726 of 2005

Between:

T.B.High School, Dhulipudi, Guntur District rep. by its Correspondent Sri. T. Kodanda Pani Gupta.

... PETITIONER

AND

1 State of A.P., rep. by its Secretary to Govt., School Education Dept. Secretariat, Hyderabad.
2 The District of School Education, A.P., Hyderabad.
3 The Regional Joint Director of School Education, Guntur.
4 The District Educational Officer, Guntur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring as illegal, arbitrary and unconstitutional the action of the Respondents in not approving the selection made by the petitioner on 05.03.2004 without reference to Memo dt.20.10.2004 and issue a consequential direction to the respondents with all other benefits to forthwith approve the selections.

Counsel for the Petitioner: MR.AKA.VENKATARAMANA

Counsel for the Respondents: GP FOR EDUCATION

The Court at the admission stage made the following:

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not approving the selections made by the petitioner on 05-03-2004 as arbitrary and illegal and consequently to direct the respondents to approve the selection made by the petitioner school from the date of selection with all other consequential benefits to the selected candidates.

It is stated that one S.G.B.T, one Grade II Hindi Pandit and One Sweeper Cum-Gardner posts fell vacant in the petitioner School and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission vide proceedings dated 05-03-2004, in pursuance of which the Staff Selection Committee was constituted and the candidates were selected. However, the approval of the Competent Authority has not yet been granted and consequently the appointments could not be made in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-

2004, held that in the Memo dated
20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to pass orders of approval in accordance with law notwithstanding the ban imposed under the Memo dated 20-10-2004 so as to enable the petitioner to fill up the vacant posts.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Dated: 27-04-2005

Note: Furnish C.C. in a week

B/o.

LSK

ASSISTANT REGISTRAR

To

1 The Secretary to School Education, Secretariat , Hyderabad.
2 The District of School Education, A.P. Hyderabad
3 The Regional Joint Director of School Education Guntur.
4 The District Educational Officer, Guntur.

5 Two C.Cs. to the G.P. for Education, High Court Buildings, Hyderabad. (OUT)

6 Two C.D. copies.